

All remaining rejections/objections follow.

Claims 15-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima (JP 2002-020576).

Patentees disclose a composition which is produced by polymerization of polymerizable organic peroxides in the presence of a propylene polymer is reacted with an acrylic polymer and crosslinker. Note the CAPLUS abstract. Note also the Patent Abstracts of Japan Abstract for use of a "graft copolymer and the acrylic rubber". Hydroxypropylmethacrylate may be used to produce the graft copolymer at paragraph 22. Particle sizes of the two components are 0.1-1 micron in paragraph 31. Applicants "acrylic rubber" monomers and percentages thereof are disclosed in paragraphs 37 and 38 which also refers to the monomers as being useful for producing "acrylic rubber". The two components are reacted together with "cross linking agent" and a "bridge accelerator" encompassing applicants "co-crosslinking agent" at paragraph 43. The acrylic rubber may contain the crosslinker of the "vinyl system copolymer" (paragraph 39) such as include allyl methacrylate at paragraph 26. Note the table on page 12 for use of "MEA" (presumably methoxyethylmethacrylate) and "AN".

No examples are present in the patent having all of applicants components present in combination in applicants amounts. However to arrive at applicants composition by selecting from the various disclosures of the reference and combining them would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in the expectation of adequate results absent any showing of surprising or unexpected results.

Applicant's arguments filed 11-21-08 have been fully considered but they are not persuasive. It is not the position of the examiner that Fukushima discloses any examples

containing all of applicants materials in combination but it is not the position of the examiner that Fukushima anticipates the claims. Fukushima discloses use of all of applicants acrylic rubber monomers in paragraph 37 and patentees rubber producing monomers are disclosed to be useable as “two sorts or more” and discloses that alkyl acrylates and methoxyethylmethacrylate are preferably used while in paragraph 38 patentees disclose that acrylonitrile may be used in combination with the monomers in paragraph 37. Hence there is minimal picking and choosing to arrive at applicants rubbers and it is not necessary to select from disclosures of monomer use unrelated to rubber production. Similarly butyl acrylate is disclosed to be “especially desirable” for the production of the graft copolymer in paragraph 21 and in paragraph 22 styrene is disclosed to be copolymerizable with the monomers of paragraph 21. Thus it is not necessary merely to select from old elements described in an unrelated manner by the patent nor is the amount of selection from the disclosure of Fukushima as yet unreasonable despite applicants amendment. The motivation to select the various monomers of Fukushima is that patentees disclose that they can be used and thus the desirability of achieving results desired by the reference is the motivation for selecting applicants monomers for use in applicants various components.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis 9-5 pm, M-F, at telephone number 571 272 1075.

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Art Unit 1796

JCM

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